

## **Subchapter A : The Council**

### **§286.1. Purpose and Scope.**

(a) The purpose of this subchapter is to implement the provisions of Texas Health and Safety Code, Chapter 367, concerning the On-site Wastewater Treatment Research Council.

(b) The scope of this subchapter covers the organization, administration, and other general procedures and policies concerning the council's operation.

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Effective July 17, 1995

### **§286.2. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Commission - The Texas Natural Resource Conservation Commission.

Council - The On-site Wastewater Treatment Research Council.

Demonstrate - To make a display of, to show outwardly, hence, to show or prove publicly as by the actual operation, the special value or merits of an article or product with a view to its introduction or sale, also to teach by demonstration, to explain, or illustrate.

Donor - One or more individuals or organizations that offer to give financial assistance to the council.

Executive Secretary - An employee of the commission who acts as a liaison between the council and the commission.

Officer or member - Any one of the eleven members of the council that has duly been appointed by the governor.

Other council representative - An employee of the council, an employee of the commission acting on behalf of the council, and any other person(s) acting on behalf of the council.

Research - Studious inquiry or examination and usually critical and exhaustive investigation or experimentation having for its aim the discovery of new facts and their correct interpretation, the revision of accepted conclusions, theories or laws in the light of newly discovered facts or the practiced application of such new or revised conclusions.

UG&CMS - Uniform Grant and Contract Management Act, Texas Government Code, Chapter 783, and the rules promulgated thereunder in 1 TAC §5.141-5.167.

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**§286.3. Meetings.**

(a) The council shall hold at least quarterly meetings and additional emergency meetings as determined by the chairperson or a majority of the members.

(b) Meetings shall be announced and conducted under the provisions of the Texas Open Meetings Act, Government Code, Chapter 551.

(c) The council may enter into executive session at a regularly called meeting for which notice has been given and where a quorum of the council is present, provided the chairperson publicly announces that an executive session will be held. No final action may be taken in executive session and the executive session may only be held as allowed by the Open Meetings Act.

(d) The council may enter into executive session at a regularly called meeting for which notice has been given and where a quorum of the council is present provided the chairperson publicly announces that an executive session will be held. No final action may be taken in executive session and the executive session may only be entered for the following reasons:

(1) private consultations with legal counsel for pending or contemplated litigation, settlement offers, and matters where the attorney-client privilege attaches;

(2) discussion regarding the purchase, exchange, lease, or value of real property, negotiated contracts for prospective gifts, or donations to the state or the council if the discussion would have a detrimental impact on the negotiating position of the state or the council;

(3) appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an officer or agent of the council, unless that person requests a public hearing;

(4) the deployment of specific occasions for implementation of security personnel or devices; or

(5) conferences with employee(s) for the purpose of receiving information from or asking questions of the employee(s) provided that no discussion of public business or council policy that affects public business shall take place between council members during the conference.

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**§286.4. Transaction of Official Business.**

(a) The council may transact official business only in a legally constituted meeting with a quorum present. A quorum of the council necessary to conduct official business is six members.

(b) The vote of a majority, but not fewer than four, of the council members present at a meeting is required for any council action, including the approval of a grant request.

(c) The council shall not be bound in any way by any statement or action on the part of any council or staff member except when a statement or action is pursuant to specific instructions of the council.

(d) Individual council members, when contacting the executive secretary or his/her alternate, shall refrain from giving directives or establishing policies. When making statements to the general public concerning matters under the jurisdiction of the council, individual members shall not state or imply that the individual member's opinion necessarily represents the opinion or policy of the council.

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**§286.5. Attendance.**

(a) The policy of the council is that members will attend regular and committee meetings as scheduled.

(b) The council may report to the governor the attendance records of members.

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**§286.6. Agendas.**

(a) At the direction of the chairperson, the executive secretary shall prepare and submit an agenda to each member of the council at the time it is provided to the Secretary of State, and the agenda shall include items requested by members, items required by the Texas Open Meetings Act, V.T.C.A., Government Code, Chapter 551, and other matters of council business which have been approved for discussion by the chairperson.

(b) The official agenda of a meeting shall be filed with the Texas Secretary of State as required by the Open Meetings Act, Government Code, Chapter 551.

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**§286.7. Minutes.**

(a) The minutes of any council meeting are official only when affixed with the original signatures of the chairperson and the executive secretary.

(b) Drafts of the minutes of each meeting shall be forwarded to each member of the council for review and comments or corrections prior to approval by the council. Drafts of the minutes shall be mailed to the council members within ten days of the council meeting.

(c) The official minutes of the council meetings shall be kept in the office of the executive secretary and shall be available to any person desiring to examine them. The minutes of the meetings shall be kept for a minimum of three calendar years.

(d) The executive secretary shall file the official minutes of the council meetings with the Legislative Reference Library.

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**§286.8. Elections.**

(a) At the meeting held nearest to January 1 of each year, the council shall elect a chairperson and a vice-chairperson.

(b) A vacancy which occurs in the offices of chairperson or vice-chairperson may be filled at any quarterly meeting as required.

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**§286.9. Officers.**

(a) Chairperson.

(1) The chairperson shall preside at all council meetings at which he or she is in attendance and perform all duties prescribed by law or this chapter.

(2) The chairperson is authorized by the council to make day-to-day operational decisions regarding council activities in order to facilitate the responsiveness and effectiveness of the council.

(3) The chairperson is authorized to make expenditures on a monthly basis as approved by the Council in its annual operating budget. In the event of any non-budgeted items, the chairperson is authorized to make expenditures of no more than \$1500 per quarter.

(b) Vice-chairperson.

(1) The vice-chairperson shall perform the duties of the chairperson in case of the absence or disability of the chairperson.

(2) In case the office of the chairperson becomes vacant, the vice-chairperson shall serve until a successor is elected.

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**§286.10. Committees.**

(a) The council or the chairperson, with the approval of the council, may establish committees deemed necessary to carry out council responsibilities.

(b) The chairperson, with the approval of the council, shall appoint the members of the council to serve on committees.

(c) The chairperson shall appoint the committee chairperson.

(d) Committee chairpersons shall make regular reports to the council in interim written reports and/or at regular meetings.

(e) Committees shall direct all reports or other materials to the executive secretary for distribution.

(f) Committees shall meet when called by the committee chairperson or when so directed by the council.

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**§286.11. Executive Secretary.**

(a) The executive secretary of the council and his/her alternate in case of the absence of the executive secretary shall be an employee of the commission and shall serve as the administrator of council activities.

(b) The executive secretary shall keep the minutes of the meetings and proceedings of the council and shall be the custodian of the files and records of the council.

(c) The executive secretary shall be responsible for the presentation of written complaints to the council.

(d) The executive secretary shall handle general day-to-day correspondence for the council or as directed by the chairperson under

the chairperson's signature and obtain, assemble or prepare reports and information as the council may direct.

(e) The executive secretary shall have the responsibility of assembling and coordinating the review of materials submitted by applicants for grants. The executive secretary shall present commission recommendations concerning eligibility of grant applicants. The council shall make the final decision on the eligibility of the applicants.

(f) The executive secretary shall provide the council with the status of each new grant proposal at each council meeting. The executive secretary shall provide the council with a quarterly report of all deliverables required of grantees in accord with their contract.

(g) The executive secretary shall provide the council with monthly or quarterly reports of all fiscal transactions and current revenues.

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#### **§286.12. Reimbursement for Expenses.**

(a) A council member is entitled to per diem, meals, lodging, and transportation expenses as provided by the latest General Appropriations Act passed by the Texas Legislature. Council members who are also state employees are not eligible for compensatory per diem.

(b) Council members shall submit per diem, meals, lodging, and transportation expenses on official commission vouchers to the executive secretary. The vouchers shall be paid within a reasonable time and in accordance with commission operating policies and procedures.

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#### **§286.13. Official Records.**

(a) All official records of the council, unless considered confidential under the provisions of Texas Open Records Act, Government Code, Chapter 552, shall be open for inspection during regular office hours.

(b) A person desiring to examine official records shall be required to identify himself or herself and sign statements listing the records requested and examined.

(c) Official records shall not be taken from commission offices; however, persons may obtain copies of records upon written request and by paying the cost per page set by the General Services Commission.

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**§286.14. Impartiality and Non-discrimination.**

(a) The council shall make no decision in the discharge of its statutory authority with regard to any person's race, religion, color, sex, or national origin.

(b) Any council member who is unable to be impartial in the determination of an applicant's eligibility for a grant shall declare this to the council in an open meeting and shall not participate in any council proceedings involving that applicant. This disclosure shall be entered in the minutes of the meeting.

(c) Any council member who has or has had any interest, including any pecuniary interest, in any grant proposal or grant applicant shall so inform the council in an open meeting and shall not participate in any council proceedings involving that grant proposal. This disclosure shall be entered in the minutes of the meeting.

(d) A council member is not eligible to submit a grant proposal, or be engaged as subcontractor or paid consultant for any applicant or any awarded project.

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Repeal of §§286.1-286.15  
Adoption of New §§286.1-286.14  
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